

Point Defiance/Tahlequah Terminal Siting Feasibility Study – SEPA/NEPA Assessment

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Project Overview

Washington State Ferries (WSF) is conducting a feasibility study to evaluate upgrading the vessels used on its Point Defiance/Tahlequah route (Tacoma to Vashon Island). To accommodate operations of these new larger vessels at the Tahlequah terminal, WSF is assuming reconstruction, expansion, and possible relocation of the ferry pier within the vicinity of its existing location. WFS also foresees expansion of the vehicle holding area, and possible reconfiguration of the Tahlequah vehicle queuing area. On the Point Defiance side of the route, WSF is evaluating relocation of the terminal from the Point Defiance Park to a location within or near the Asarco site. The new terminal would be approximately 1 to 2 miles from the existing terminal, depending on the location of the new terminal. The former smelter property is a Superfund site and is presently being remediated by Asarco, the site owner. Asarco estimates that remediation of upland contamination will be complete in 2 years. The schedule to address Asarco's remediation responsibilities for the offshore area of the site (sediment capping) is unknown and depends on the availability of remediation funding. This memorandum discusses the relevant NEPA/SEPA documentation requirements and the appropriate level of environmental documentation for the terminal expansion and relocation project. Also identified are an associated and recommended public involvement process and key stakeholders.

NEPA/SEPA Documentation

A project must conform to the requirements of the National Environmental Policy Act (40 CFR 1500) (NEPA) when that project includes participation of a federal agency. WSF projects typically involve a federal agency, either the Federal Highway Administration (FHWA) or the Federal Transit Administration (FTA), because that agency either has committed to or is anticipated to provide funding for project implementation. The federal agency could also be involved because a federal permit will be required, such as U.S. Army Corps of Engineers' Section 10 permit, which is required for any construction within navigable waters. Because the project will require construction in Puget Sound, a Section 10 permit is required and NEPA documentation is necessary.

Following NEPA requirements does not absolve a state agency from complying with the State Environmental Policy Act (SEPA). The SEPA Rules, however, allow an agency to adopt environmental analysis prepared under NEPA to satisfy SEPA requirements (WAC 197-11-610). NEPA documents may also be incorporated by reference as support for issuance of a SEPA document (WAC 197-11-635).

WSF is the lead agency for SEPA. For the Point Defiance/Tahlequah project a NEPA document should be prepared and subsequently adopted for SEPA.

The lead agency under NEPA must be a federal agency (40 CFR 1501.5). Most commonly the Federal Highway Administration is the lead agency and WSF is the co-lead agency. (FHWA's NEPA implementation guidelines are at 23 CFR 771.) Although FHWA is ultimately responsible for the environmental document, the accepted practice is to delegate the preparation of the environmental document and implementation of the environmental review process to WSF.

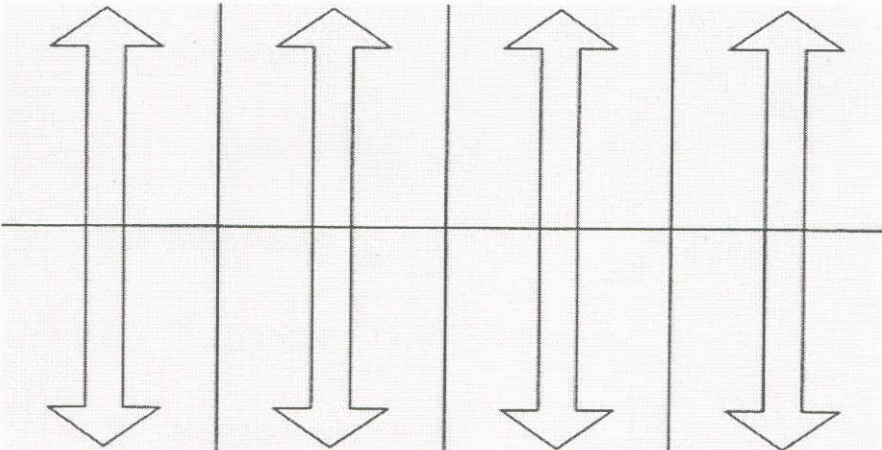
Environmental Documentation

NEPA provides for three levels of environmental documentation: a categorical exclusion (CE), an environmental assessment (EA), and an environmental impact statement (EIS). The appropriate level of documentation depends on the level of significance an action may have. Whether a proposed action "significantly" affects the quality of the environment is determined by considering the context in which the action will occur and the intensity of the action. The following diagram summarizes the various factors contributing to significance and the corresponding levels of significance and documentation. The following discussion considers these factors with respect to the proposed project.

Categorical Exclusion (CE): Under NEPA, a project that has been predetermined by a federal agency with jurisdiction as not likely to have significant adverse environmental effects is therefore not subject to NEPA regulations.

Environmental Assessment (EA): An EA is a public document that a lead agency prepares when a project is not covered by a categorical exclusion; the lead agency is uncertain whether the negative effects will be significant; and the lead agency will assist in decision-making and recording for environmental approvals.

Environmental Impact Statement (EIS): The EIS is prepared when the lead agency determines that a proposal is likely to have significant adverse environmental effects.

	Range of Alternatives	Significance of Effects	Extent of Mitigation	Agency and Public Controversy
SEPA Exemption/ SEPA Checklist/ NEPA CE	One	Insignificant	Limited	Low
SEPA Expanded Checklist/ NEPA EA				
SEPA/NEPA EIS	Many	Greater Significance	Extensive	High

Range of Alternatives

While only one alternative should be considered in a CE, NEPA does not set specific limits on the number of alternatives to be evaluated in an EA or an EIS. However, it is common to only include one alternative in an EA. The Point Defiance/Tahlequah Terminal Siting Feasibility Study is presently considering up to four alternatives at Pt. Defiance and one to two at Tahlequah. Some of these preliminary alternatives will likely be deleted from further consideration as the project moves forward. As a point of reference, the Keystone-Port Townsend Ferry Terminal Improvement Project contemplated three alternatives, which FHWA advocated should be an EA. Even though three alternatives is greater than the number of alternatives typically analyzed in an EA, there is no specific prohibition against it, and FHWA has supported the evaluation of that many alternatives in an EA in the past.

Significance of Effects and Extent of Mitigation

The significance of effects resulting from a project and the extent of mitigation necessary to reduce the adverse effects can influence whether an EIS or an EA is appropriate. Based on the assumed Pt. Defiance and Tahlequah terminal projects and the known site conditions, effects to the environment are anticipated to be less than significant.

Agency and Public Controversy

WSF is in the preliminary stages of evaluating the feasibility of these projects and has not yet publicized the potential to reconstruct and relocate the ferry terminals. As a result, it is difficult to assess the potential controversy of the project. Agencies are typically concerned about effects on the aquatic environment, such as overwater coverage and in-water pile driving. Agencies are also concerned about the effects on aquatic habitat, such as eelgrass and macroalgae, prop wash, and wetlands. The public is generally concerned about traffic, changes to view corridors, and noise. A segment of the public may also find a ferry terminal project controversial if it is perceived to threaten a fragile or exceptional environmental resources.

Traditional agency concerns should not be highly controversial at either the relocated Point Defiance terminal or the Tahlequah terminal. At the proposed relocation site for the Point Defiance terminal, there is no macroalgae, eelgrass, or wetland habitat. Based on available information, there does not appear to be any wetland habitat at the Tahlequah terminal. In addition, eelgrass surveys of the Tahlequah harbor area (Anchor Environmental, ____) indicate that eelgrass is not present in the currently planned location for the relocated pier. The trestles at both terminals can be designed to minimize overwater coverage, reducing potential agency concerns. Because pile driving is a major concern for NOAA Fisheries and U.S. Fish and Wildlife Service, WSF is currently working with these agencies to identify measures to minimize the negative effects of pile driving on fisheries. When the proposed Point Defiance/Tahlequah project begins the preliminary design and environmental review process, WSF, NOAA Fisheries, and U.S. Fish and Wildlife Service are likely to have reached an understanding on how best to minimize effects from pile driving.

The number of people affected influences the level of public controversy and from whom they garner support, such as elected officials. At this point in time, there are no residences adjacent to the proposed sites for the relocated Point Defiance terminal. Depending on how the schedule for redevelopment of the Asarco site and the development of ferry terminal

coincide, residences may be in place. Residences in the town of Ruston currently overlook the ASARCO site and have north to northeast views across Puget Sound. Based on an aerial of the Tahlequah ferry terminal, the number of residences along the bay is approximately two dozen, with approximately six in the immediate upland area.

Traffic is likely to cause the greatest amount of concern at the two terminals. The new vessels assigned to the route will carry more vehicles than the existing vessels. While the number of people using the Point Defiance-Tahlequah route may not go up, the number of vehicles queuing for a trip is likely to increase because of the greater capacity of the new vessels, creating larger pulses of traffic and requiring larger vehicle queuing and holding areas. These issues are likely to arise during preparation of the WSF system plan, giving an indication of the public's level of concern prior to initiating the Point Defiance/Tahlequah project.

Other potential concerns, such as blocked views and noise, should not generate extraordinary levels of controversy. Past experience with FHWA has indicated that FHWA expects some public objection to a project and that negative public comments about a project are not enough to warrant the preparation of an EIS. Instead FHWA tends to advocate for the preparation of an EA that includes a public involvement process similar to that for an EIS.

Recommended NEPA Document

Based on the currently anticipated number of alternatives, the estimated significance of negative effects when measures have been included with the project description to minimize those effects, and the likely level of agency and public controversy, the appropriate level of environmental documentation is an Environmental Assessment. This recommendation is consistent with the current scoping process for the Mukilteo Ferry terminal improvement project, which is also a terminal relocation project.

Other NEPA-Related Documentation

FHWA requires compliance with other federal regulations prior to providing approval of the environmental document. These federal regulations are:

- Section 106 of the National Historic Preservation Act of 1966 (Title 16 United States Code Section 470)
- Section 4(f) of the Department of Transportation Action of 1966 (Title 23 United States Code Section 138)
- Endangered Species Act of 1973 (ESA; Title 16 United States Code Chapter 35)
- Presidential Executive Order 12898 (EO 12898), *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (February 11, 1994)

As noted below, it cannot be determined at this time if Section 4(f) and Section 106 regulations will need to be addressed; however, ESA requirements will.

Section 106—Section 106 requires federal agencies and others to consider the effects of proposed projects on historic properties. Section 106 defines historic properties as any property listed in or eligible for the National Register of Historic Places (NRHP). Properties of traditional religious and cultural importance to a tribe, referred to as traditional cultural

properties, may be determined eligible for inclusion in the NRHP. While no known NRHP sites would be affected by the proposed WSF project, there may be eligible structures and traditional cultural properties at the Tahlequah terminal.

Section 4(f)— Section 4(f) prohibits FHWA from approving a project or program that uses land from a significant public park, recreation area, wildlife or waterfowl refuge, or historic site. While the proposed project would affect the Point Defiance Park because the terminal would be relocated from the park, the project would not use the park by acquiring any park land for the new terminal or by causing severe proximity effects, such as increased noise, that would diminish use of the park. As noted above, no known NRHP sites would be affected by the project, but the potential eligibility of structures and traditional cultural properties at the Tahlequah site are not known at this time.

Endangered Species Act—ESA requires the preparation of a biological assessment (BA) when a project is located where listed, proposed, and candidate species occur. The construction of the in-water elements of the terminal will take place where listed, proposed, and candidate species occur, particularly salmonids.

Environmental Justice—EO 120898 states that “Each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations.” As part of the environmental justice review process, the lead and co-lead agencies need to make special efforts to ensure participation by all potentially affected communities, including minority populations and low-income populations in the transportation decision-making process.

Public Involvement

NEPA does not include as many public involvement actions for an EA as it does for an EIS. For example, NEPA regulations do not require the sponsoring agency to hold a public scoping period prior to the preparation of an EA or a public meeting to receive comments on an EA once it is prepared. The public involvement plan recommend for this project should include a scoping meeting and public hearing, as well as other activities as outlined below:

Future Feasibility Study

If another feasibility study is conducted immediately prior to starting the environmental review process, a public meeting is recommended at that time to inform the public about WSF's intentions for the project, the proposed environmental review process and further public involvement opportunities. Such an early meeting will demonstrate WSF's desire to consider public concerns from the outset.

Scoping Meeting

NEPA's intent for the scoping meeting is to determine the scope of issues to be considered in the environmental document and their potential significance. Typically, a draft purpose and need statement and preliminary alternative sites are presented at a scoping meeting. The scoping meeting would be a good opportunity to present WSF's intention to prepare an EA and the reasons for that decision—effects are not likely to be significant and the project includes measures to minimize effects. The public should also be informed that if the scoping comments identify a potential adverse effect, WSF might decide to prepare an EIS.

Public Hearing on EA

NEPA requires that an EA be made available for public comment, but does not require a public meeting. We recommend that a meeting be held to solicit comments on the EA. This hearing would take place during the comment period, which is 30 days, unless a Section 4(f) resource is affected, and then the comment period is 45 days.

Other Public Meetings

Depending on the public responses received at the scoping and EA meetings, it may be useful to hold additional meetings or open houses to keep the public informed throughout the environmental review process.

Project Web Site and Newsletters

A Web site and newsletters should be used to keep the public informed as a project progresses. A Web site and newsletter provide an opportunity for WSF to share with the public what they public's concerns are and how they are being addressed.

Key Stakeholders

The following lists the key tribal, federal, state, and local stakeholders. The Signatory Agency Committee (SAC) is not listed below because the preparation of an EA is anticipated. EAs are not subject to the SAC Agreement. Opportunities for involving stakeholders include inviting other federal, state, and local governments to participate as cooperating agencies, forming a technical advisory committee, or holding regular meetings with individual stakeholders. The goal of all of these approaches is to identify and start responding to stakeholder concerns as early in the process as possible.

- **Tribes**
 - Muckleshoot
 - Puyallap
 - Snoqualmie
- **Federal**
 - U.S. Fish and Wildlife Services – ESA
 - NOAA Fisheries – ESA
 - U.S. Army Corps of Engineers – Permits (Section 10 and possibly Section 404)
 - EPA – Superfund site and responsible for filing EA
- **Washington State**
 - Department of Natural Resources – Outer harbor line
 - Department of Ecology – Temporary Modification of Water Quality Criteria, Coastal Zone Management Certification
 - Department of Fish and Wildlife – Hydraulic Project Approval
- **Local Agencies**
 - King County
 - Pierce County
 - METRO
 - Pierce Transit

- Town of Ruston
- City of Tacoma, including Point Defiance Zoo
- Vashon Island Fire and Rescue
- **Others**
 - Ferry Advisory Committee
 - ASARCO
 - Tacoma Yacht Club
 - Vashon/Maury Island Audubon Society
 - Local organizations commenting on the upcoming WSF Systems Plan